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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,070	03/01/2002	Richard S. Garber	110413	9119
25944	7590	12/27/2005	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			ENSEY, BRIAN	
			ART UNIT	PAPER NUMBER
			2646	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,070

Applicant(s)

GARBER ET AL.

Examiner

Brian Ensey

Art Unit

2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-3, 15 and 20-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 7-12 and 16 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 13, 14 and 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/1/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 4-14 and 16-19 in the reply filed on 10/03/05 is acknowledged. The traversal is on the ground(s) that the subject matter of all species is sufficiently related and the search can be made without serious burden. This is not found persuasive because species 1 would be found in class 381, subclass 58 or 60 for monitoring/measuring of audio devices. The specifics of utilizing logic circuitry requires additional searching in class 326 for specific electronic digital logic circuitry which is covered in species 2. Further, species 3 requires a search for noise generation in a hearing aid found in class 381, subclass 317 or 318 for noise compensation or feedback suppression. Therefore, the species claims would require a search covering at least three classes and multiple subclasses requiring extensive time and placing a significant burden on the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: See "switch mechanism 400" on page 6, line 11. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

“Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 11, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Power et al. U.S. Patent No. 4,095,057.

Regarding claim 4, Power teaches an acoustic test box comprising: a compartment to receive at least one hearing aid (4); a transducer (microphone 51 in coupler 7) to detect and convert oscillations (sound produced in the test box) in the compartment into electrical signals; a logic circuit coupled to the transducer; and a first visual cue (LED matrix 9) that is activated by the logic circuit if the logic circuit (19) determines that the electrical signals produced by the transducer is indicative that the hearing aid is oscillating (See Fig. 1 and col. 1, lines 29-50 and col. 2, lines 14-27 and 39-52). Power does not expressly disclose the acoustic test box is a hearing aid casing. However, Power teaches the acoustic test box is used to contain a hearing aid in an enclosed environment (See col. 2, lines 19-21). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that the acoustic test box of Power is also a case for holding a hearing aid.

Regarding claim 11, Power further discloses the logic circuit further comprises: an amplifying circuit (31) to amplify the electrical signals produced by the transducer (See Figs. 2 and 3).

Regarding claim 12, Power teaches an acoustic test box comprising: a compartment to receive at least one hearing aid (4); a transducer (microphone 51 in coupler 7) to detect and convert oscillations (sound produced in the test box) in the compartment into electrical signals; a logic circuit coupled to the transducer; and a first visual cue (LED matrix 9) that is activated by the logic circuit if the logic circuit (19) determines that the electrical signals produced by the transducer is above a predetermined threshold level (Visual cue is only provided in response to simultaneous occurrence of timer and discriminator output thus representing the oscillation is at a specific threshold as determined by the generator setpoint) (See Fig. 1 and col.1, lines 29-50 and col. 2, lines 14-27 and 39-52). Power does not expressly disclose the acoustic test box is a hearing aid casing. However, Power teaches the acoustic test box is used to contain a hearing aid in an enclosed environment (See col. 2, lines 19-21). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that the acoustic test box of Power is also a case for holding a hearing aid.

Regarding claim 16, Power teaches a method for detecting oscillation of a hearing aid in an acoustic test box, the method comprising: providing a compartment in the hearing aid in the box (4); placing at least one hearing aid (3) in a compartment; detecting the oscillation of the hearing aid by a transducer (microphone 51 in coupler 7); using a logic circuit to determine if the electrical signals are indicative of the hearing aid that is oscillating (sound produced in the test box); and activating a first visual cue if the logic circuit determines that the electrical signals are indicative of the hearing aid that is oscillating (LED matrix 9) (See Fig. 1 and col.1, lines 29-50

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and col. 2, lines 14-27 and 39-52). Power does not expressly disclose the acoustic test box is a hearing aid casing. However, Power teaches the acoustic test box is used to contain a hearing aid in an enclosed environment (See col. 2, lines 19-21). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that the acoustic test box of Power is also a case for holding a hearing aid.

Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Power as applied to claims 4 and 20 above, and further in view of Mattatall U.S. Patent No. 4,379,988.

Regarding claim 7, Power discloses an acoustic test box (4). Power does not expressly disclose a storage case base; and a lid pivotally attached to the storage case base, the storage case base and lid forming the compartment when the lid is in a closed position. However, a case with a pivotal lid and base is well known in the art and Mattall teaches a storage case base (10) and a lid pivotally attached to the storage case base, the storage case base and lid forming the compartment when the lid is in a closed position (See Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to construct a case with a base and pivotal lid for easy placement and removal of the device in the case.

Regarding claims 8-10, Power discloses an acoustic test box (4). Power does not expressly disclose a switch mechanism which permits power to be transmitted to the logic circuit when the lid is placed in an open position or when the lid is in a closed position. However, the use of lid activated switches for enable/disable functions in cases, boxes or enclosures is well known in the art and it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize an automatic switching function in the box of Power to establish test conditions upon insertion of the hearing aid without separate user interaction.

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Allowable Subject Matter

Claims 5, 6, 13, 14 and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Va. 22313-1450

Or faxed to:

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to:


Customer Service Window
Randolph Building
401 Dulany Street
Arlington, VA 22314

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BKE

December 22, 2005


SINH TRAN
SUPERVISORY PATENT EXAMINER